Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH-COURT NO. 3

Excise Appeal No. 11066 of 2016 - DB

(Arising out of OIO-VLD-EXCUS-000-COM-0024-15-16 dated 25/02/2016 passed by Commissioner of Central Excise, Customs and Service Tax-Valsad)

Sun Pharmaceuticals Industries Ltd ....**Appellant**
Plot No. C1/2710,
Iii Phase, Gidc, Vapi.
Valsad, Gujarat

VERSUS

C.C.E & S.T.-Valsad ......**Respondent**
Third Floor, Adarashdham Building,
Vapi-Daman Road, Vapi, Gujarat
Gujarat- 396191

APPEARANCE:
Shri A. B. Nawal, Cost Accountant for the Appellant
Shri R K Agarwal, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. RAJU

Final Order No. 12271/2023

DATE OF HEARING: 03.10.2023
DATE OF DECISION: 11.10.2023

RAMESH NAIR

The issue involved in the present case is that whether the appellant is eligible for remission of duty in case the Cenvat Credit involved, in the goods to be destroyed, was not reversed, or otherwise.

2. Shri A. B. Nawal, Learned Cost Accountant appearing on behalf of the appellant at the outset submits that in the present case the application for remission of duty was made on 08.05.2007. whereas the provisions for reversal of Cenvat Credit in respect of goods on which remission is sought for has come into force by insertion of Rule 3 (5c) in Cenvat Credit Rules vide notification No. 33/2007-C.E.(NT) dated 07.09.2007 therefore this provision of reversal of credit in terms of Rule 3 (5c) is not applicable in the case of the appellant for the reason that the application was filed much prior to the date i.e. 07.09.2007. On the query from the bench that though the application was made but the goods were finally destroyed subsequent to

the insertion of Rule 3 (5c) in Cenvat Credit Rules, the appellant is prima facie liable to reverse the credit on which Shri Nawal fairly concede that in any case the demand of excise duty for which the remission was sought for is not sustainable and he under takes to reveres credit involved in the goods under destruction.

3. Shri R. K. Agarwal Learned Superintendent (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

4. On careful consideration of the submission made by both the sides and perusal of record, we are of the view that the case can be decided on threshold issue that if the appellant agrees to reverse the credit the appellant is eligible for remission of duty amounting to Rs. 6,28,488/- As conceded by the learned counsel the appellant is prepared to reverse the Cenvat Credit attributed to the goods under destruction along with interest if any applicable. Accordingly, we are of the view that in this position, the appellant is entitled for the remission of duty subject to the reversal of the Cenvat Credit along with payment on interest thereon if any applicable and we hold so.

5. The impugned order is modified to the above extent. The appeal is allowed in the above terms.

(Pronounced in the open court on 11.10.2023)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Raksha